

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of----- )  
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 PUBLIC UTILITIES COMMISSION )  
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 Instituting a Proceeding to )  
 Investigate Implementing a )  
 Decoupling Mechanism for Hawaiian )  
 Electric Company, Inc., Hawaii )  
 Electric Light Company, Inc., and )  
 Maui Electric Company, Limited. )  
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DOCKET NO. 2008-0274

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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S  
MOTION TO INTERVENE

AND

CERTIFICATE OF SERVICE

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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S  
MOTION TO INTERVENE

The Department of Business, Economic Development, and Tourism ("Department" or "DBEDT"), by and through its Director (Director) in his capacity as the Energy Resources Coordinator, and through the undersigned Deputy Attorney General, hereby moves to intervene in the matter before the Public Utilities Commission ("Commission") in Docket No. 2008-0274, Instituting a Proceeding to Investigate Implementing a Decoupling Mechanism for Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited, ("HECO Companies"). The Commission instituted Docket No. 2008-0274 pursuant to its investigatory authority granted under the Hawaii Revised Statutes (HRS) §269-7(a), §269-7(c), §269-6, §269-15,

and Hawaii Administrative Rules (HAR) §6-61-71, Rules of Practice and Procedure before the Public Utilities Commission. The Department does not require a hearing on this motion.

The background of the Commission's "Order Initiating Investigation" ("Order") dated October 24, 2008, to examine implementing a decoupling mechanism, cited the comprehensive Energy Agreement ("Agreement") entered into on October 20, 2008, by the Governor of the State of Hawaii, DBEDT, the HECO Companies, and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("CA"). The Agreement was designed to reduce the State's heavy dependence on imported fossil fuel for its energy needs and to move towards indigenously produced clean renewable energy and an ethic of energy efficiency. The Agreement emerged from the framework of the Hawaii Clean Energy Initiative ("HCEI") which is a long-term partnership between the State of Hawaii and the U.S. Department of Energy (USDOE) with the goal of meeting 70% of Hawaii's energy needs with clean renewable energy by 2030, provide long-term benefits to the people of Hawaii including price stability and ultimately lower energy cost than would be incurred using imported fossil fuels, energy security, economic growth and diversification as Hawaii reduces its fossil fuel imports. The USDOE and DBEDT are the parties implementing the activities of

the HCEI, including the development and facilitation of the Agreement.

The parties to the Agreement recognize that the transition to this independent, clean renewable energy future will require significant public and private investments which impact Hawaii's ratepayers and taxpayers, and expect to achieve long-term benefits that outweigh the costs of such investments. The parties are also cognizant of the need to preserve a stable electricity grid, and to have a financially sound electric utility as vital components of this transformation to a clean, renewable energy future.

Included in the Agreement is the commitment by the HECO Companies to implement a decoupling mechanism that would remove the barriers for the utilities to aggressively pursue, implement, and facilitate demand-response and load management programs, non-utility owned renewable energy systems, and energy efficiency programs - all of which impact the utilities' kilowatt-hour sales.

As stated in the Commission's Order, the HECO Companies and the CA will be impacted by the outcome of this investigation by being signatories to the Agreement, and thereby named these two signatories as parties to this proceeding. DBEDT is also a signatory to the Agreement and played a critical role in developing and facilitating the Agreement as part of its

statutory function, and will also be impacted by the outcome of this proceeding by virtue of its statutory role and responsibilities as the Energy Resources Coordinator ("ERC") under §196-4, HRS. The ERC has the statutory powers and duties to formulate energy plans, including objectives, criteria to measure accomplishment of those objectives, and programs for the optimum development of Hawaii's energy resources, as well as conducting systematic analysis of existing and proposed energy resource programs and evaluating the analysis conducted by government agencies and other organizations such as the electric utilities in Hawaii. See, Section 196-4, Hawaii Revised Statutes (HRS). Additionally, DBEDT as the lead State agency in implementing the activities of the HCEI, including the development and facilitation of the Agreement, has the responsibility to ensure that the process to achieve the HCEI goals will be directed towards providing ratepayer benefits including long-term price stability and energy security through the increased use and development of renewable energy resources, and decreased fossil fuel imports.

It is submitted herein that this proceeding and other proceedings instituted by the Commission to explore ways to implement elements of the comprehensive Energy Agreement, including decoupling, as part of an overall program of regulatory measures to support the increased use and development

of Hawaii's renewable energy resources, will impact the essential missions of the Department. As a party to the comprehensive Energy Agreement and by virtue of its ERC's statutory role and duties as well as the Department's functions, the Department is a relevant, helpful, and necessary party to this proceeding.

The Department seeks to intervene and become a party to these proceedings pursuant to Hawaii Administrative Rule 6-61-55 on the following grounds:

**1. The nature of the Department's statutory and other right to participate.** The Department's direct and substantial interest stems from section 26-18(a), HRS, which states in pertinent part its statutory responsibilities:

The Department shall undertake statewide business and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the development and promotion of industry and international commerce through programs established by law. (Emphasis added.)

Moreover, section 196-3, HRS, provides for the statutory appointment of the Director to serve as the "energy resources coordinator". The State ERC has been provided the following relevant powers and duties pursuant to section 196-4, HRS:

(1) Formulate plans, including objectives, criteria to measure accomplishments of objectives, programs through which the objectives are to be obtained, and financial requirements

for the optimum development of Hawaii's energy resources;

(2) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of energy sources;

(3) Formulate and recommend specific proposals, as necessary, for conserving energy and fuel, including the allocation and distribution thereof, to the governor and to the legislature;

(4) Assist public and private agencies in implementing energy conservation and related measures;

(8) Serve as consultant to the governor, public agencies and private industry on matters related to the acquisition, utilization and conservation of energy resources;

(9) Contract for services when required for implementation of this chapter;

(10) Review proposed state actions which the coordinator finds to have significant effect on energy consumption and report to the governor their effect on the energy conservation program, and perform such other services as may be required by the governor and the legislature....  
(Emphasis added.)

The nature and extent of the Department's interests are thus mandated by statute. The Legislature has delegated broad authority to the Department for energy development and management, including but not limited to the analysis of comprehensive plans to provide for the full utilization and

effective allocation of Hawaii's energy resources throughout the State. The Department's interest is directly related to meeting Hawaii's energy needs through the increased use and development of renewable energy resources, and the design of a decoupling mechanism will significantly impact such renewable energy development in the State.

Since the objective of this docket is to investigate the implementation of a decoupling mechanism, any order issued by the Commission in this docket will directly affect the Department's statutory obligations.

**2. The nature and extent of the Department's property, financial, and other interest.** In the Order establishing this proceeding, the Commission stated (at pages 2-3) that:

Decoupling, as asserted by its proponents, has the benefits of encouraging the substitution of renewable resources, distributed generation and energy efficiency for the utility's fossil fuels production ... while simultaneously protecting a utility's financial health from erosion as these types of programs go into effect.

Therefore, the Commission itself acknowledges that decoupling addresses financial issues related to energy conservation and the development of energy resources. The design of a decoupling mechanism, therefore, has financial implications for the utilities as well as for those planning and pursuing energy conservation and development of energy resources in Hawaii. The



ERC has the statutory duty to assist public and private agencies in implementing energy efficiency and related measures, and the results of this proceeding will have financial impact on these agencies that could affect their energy-related activities and programs. Furthermore, the State of Hawaii is the second largest consumer of electricity in Hawaii with an annual usage of 700 gigawatt-hours (GWH), and an annual electricity cost of \$136M. The results of this docket will undoubtedly impact the State agencies, and the achievement of the HCEI goals.

**3. The effect of the pending proceedings as to the Department's interest.** As explained above, the Department's interest in intervening in this proceeding is based on (1) the significant effect of the results of this proceeding on the Department's execution of its statutory functions and the ERC's statutory role and duties, (2) the financial implications related to decoupling, (3) the financial implications related to energy conservation and development of energy resources, and (4) the fact that the Department is a signatory to the Agreement, which mandated the implementation of decoupling as part of the framework of the HCEI, for which the Department is the lead State agency.

The Commission's findings with respect to decoupling and the design of a decoupling mechanism will directly impact the

Department's interests in the fulfillment of its statutory duties as the State ERC.

**4. Other means available whereby the Department's interest may be protected.** There are no other means available whereby the Department's interest may be protected, because the Department's statutory interests cannot be advocated by the parties in this docket.

**5. The extent to which the Department's interest will not be represented by existing parties.** At this point, the existing parties to this proceeding are the HECO Companies and the Consumer Advocate. While the parties to the Agreement, including the Department, committed to the implementation of decoupling mechanism and committed in principle as to the type of decoupling mechanism that may be adopted by the HECO Companies, the parties are cognizant of the fact that the interests of the incumbent electric utilities are different and are not perfectly aligned with the Department's interests.

The Consumer Advocate may have positions that are similar to some of those of the Department, but this does not assure adequate protection or representation of the Department's broader statutory interests. The statutory responsibility of the Consumer Advocate under section 269-51, HRS, requires it to

"represent, protect, and advance the interest of consumers of utility services" (emphasis added). Because it represents a broader perspective, the Department's positions may be different from solely the interest of consumers of utility services. In other words, since the Department plays a role in this area greater than merely representing consumers, and the Consumer Advocate's role is statutorily limited to that, it cannot fully represent the Department regarding the full range of issues before the Commission in this proceeding, nor should it be expected to. For example, the Department is required by its statutory mandate to facilitate the development of renewable energy in the State.

**6. The extent to which the Department's participation can assist in the development of a sound record.** The Department submits that its expertise in energy planning, analysis, and policy development will assist the Commission and the parties in this docket by providing relevant studies, surveys and other information related to institutional, policy, financial, and other issues related to the Commission's investigation of a decoupling mechanism in the State of Hawaii.

Consistent with §196-4, HRS, relating to the ERC's "Powers and Duties", there is historical precedent for the Department's intervention in Commission dockets of this type. In this

instance, the Department has the capability to analyze and provide perspective on potential docket-related effects (benefit/costs) on all sectors of statewide energy systems, taxpayers and economy, and other relevant energy policies, all of which could supplement, without unnecessarily duplicating, the Consumer Advocate's focus on consumer benefit/costs.

For example, consumers may end up paying a slightly higher rate for electricity due to increased energy conservation and development of alternative energy resources with decoupling. In the process however, there is the possibility of significantly higher taxpayer savings, relative to the higher consumer cost, and the overall effect results in greater savings to the economy, and a decrease in imported oil use. Without intervention by the Department in this docket, supported by the necessary resources, determination of the veracity of the assumption of economic benefit relative to consumer cost is unlikely to be done to the satisfaction of regulatory rigor, if at all.

Thus, only the Department can provide that larger economic and taxpayer perspective, which for the Consumer Advocate and consumers could present an internal conflict. There are additional issues and complexities that the docket will address, which will also present certain internal conflicts for the

existing parties, but for which the Department is in a unique position to offer support, data, and guidance.

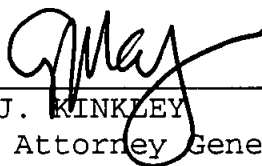
**7. The extent to which the Department's participation will broaden the issues or delay the proceeding.** As it had a vital hand in defining the issues before the Commission today, the Department would be unlikely to broaden the issues or delay this proceeding, especially since it would not only be against its own interests, but also against the needs of the people of the State and the comprehensive Energy Agreement of October 20, 2008.

**8. The extent to which the Department's interest in the proceeding differs from that of the general public.** As explained more completely above, the Department is a party to the Energy Agreement of October 20, 2008, and has a statutory obligation to coordinate the State's energy efficiency 'lead by example' program, and develop programs that encourage alternative energy resources. Although this policy and its indirect effects are of interest to the general public, and the Consumer Advocate is well-equipped to represent them, their interests with regard to the statutory mission are minimal. For the representation of that important interest, the Department must be a party to this proceeding.

9. **The Department's position with respect to the relief sought.** Given the totality of the circumstances, and with due regard to the issues that will be addressed in this proceeding, the Department concludes that it has both unique and important information and arguments to offer in the effort to resolve the implementation of a decoupling mechanism.

Therefore, and in conclusion, the Department respectfully requests that it be granted intervenor status and become a party to this proceeding.

DATED: Honolulu, Hawaii, November 13, 2008.



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Certificate of Service

I hereby certify that I have this date served a copy of the foregoing Motion To Intervene by the Department of Business, Economic Development, and Tourism in PUC Docket Number 2008-0274, upon the following parties, by delivering the original and eight copies to the PUC, four copies to the Consumer Advocate, and by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each of the parties listed below.

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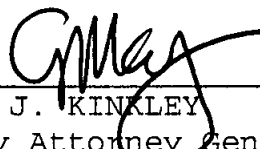
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DATED: Honolulu, Hawaii, November 13, 2008.

  
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